IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Crl.MC.No. 1691 of 2007()

CMP.1044/2007 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA

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PETITIONER:

P.N.SANKARAN PILLAI,VAIKKARA VEEDU,
POOVATHOOR MURI,KOIPURAM VILLAGE,THIRUVALLA.

BY ADV. SRI.IYPE JOSEPH
SRI.V.MANOJ KUMAR

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
KOIPURAM POLICE STATION,
PATHANAMTHITTA DISTRICT.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1691 of 2007

Dated this the 21st day of June, 2007

O R D E R

Petitioner's son faces indictment in a prosecution under the Copy Rights Act. It is the case of the police that a S.T.D booth in which the petitioner's son was conducting his activity was used for commission of offences under the Copy Rights Act. It is the further case of the prosecution that a computer and its accessories were available in the premises where the petitioner's son was conducting the said S.T.D booth. The computer and its accessories were seized and the same are produced before court. The petitioner applied for release of the computer and its accessories to him under Section 451 Cr.P.C. That application was rejected by the learned Chief Judicial Magistrate. It is, in these circumstances, that the petitioner has come to this Court with this Crl.M.C under Section 482 Cr.P.C with a prayer to release the same in favour of the petitioner.

2. The learned Public Prosecutor does not have any objection in the computer and its accessories being released from the custody of the court, but submits that the same really belongs to the petitioner's son and not the petitioner. The learned counsel for the petitioner has produced Annexure-A3, which indicates that the computer and its accessories were sold to the petitioner. Be that as it

may, in the course of discussions at the Bar, the learned counsel for the petitioner submits that to avoid any unnecessary dispute on this aspect, the petitioner is prepared to execute a bond with the son as one of the sureties. The petitioner's son shall also report to the court that he has no objection in the computer and its accessories being released to the petitioner.

3. All courts must alertly remind themselves of the dictum in **Sunder bhai Ambalal Desai v. State of Gujarat** [A.I.R 2003 S.C 638]. All courts must show the anxiety to ensure that valuable properties are not unnecessarily left to suffer damage, deterioration and loss in the custody of the court. To such person, who is most entitled to possession of such costly articles, interim custody can certainly be given, pending disposal of the proceedings. I am, in these circumstances, satisfied that the prayer of the petitioner can be allowed subject to appropriate conditions.

4. In the result, this Crl.M.C is, allowed. The computer and its accessories seized by the police and which are available in the custody of the court shall be released to the petitioner on the following terms and conditions.

i) The petitioner shall get a statement filed by his son, the accused that he has no objection in releasing the computer and its accessories to the petitioner;

ii) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate undertaking to produce the computer and its accessories as and when directed by the learned Magistrate. One of such sureties shall be the son of the petitioner/accused in the case.

(R.BASANT, JUDGE)

rtr/-